

M e m o r a n d u m**435.0470**

To: Fresno – Principal Auditor (WMA)

September 8, 1977

From: Headquarters – Legal (WEB)

Subject: A--- V--- C---
SR --- XX-XXXXXX

We have reviewed your memorandum of August 23, with attachments. We have concluded that all of the van conversions involve some element of fabrication or production labor. The following guidelines should be utilized for making audits of the van conversion companies.

1) Where the van dealer contracts with the conversion company to convert a motor van to a house car at the request of the customer, the entire charge is a step or process in fabricating or processing tangible personal property and is subject to tax (Revenue and Taxation Code Section 6006[b]); Regulation 1524).

2) Where the customer provides the van conversion company with an incomplete motor van (without complete seating or interior, etc.), the entire operation is also a step or series of operations resulting in the creation of property desired by the customer and is subject to tax as indicated in 1) above.

3) Where the customer provides the van conversion company with a completely new stock van in an operable condition, then the operation constitutes modification of an existing motor van. (Similar to annotated letter ruling 435.0160.) The tax is applicable to the fabrication or production of new parts and equipment or any new parts or equipment sold from inventory but is not applicable to the charge for installing the property sold. For example, the entire charge for constructing a bubble top would be subject to the tax. However, the charge for installing the new top or any item withdrawn from inventory would not be taxable.

4) The charge for converting used vans would be subject to the same rule as outlined in 3) above. A charge for the services of rearranging items that were part of the original equipment of the van, amounts to refitting and would be exempt from the tax.

We have considered the possibility of using a change in the registration classification (i.e., from truck to house car) as a basis for distinguishing fabrication and production from sales and additions of parts to an existing property. The difficulty is that the parties are just not in a position to make this determination until sometime after the contract is completed.

A van conversion company that collects tax reimbursement on amounts that are not taxable is subject to the excess tax provisions of Revenue and Taxation Code Section 64.5.

WEB:po